



This Report is part exempt and Appendix A is not available for public inspection as it contains or relate(s) to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is in the exempt part of the agenda because it refers to estimates of the expenditure to be incurred for the supply of goods or services and, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

CABINET

Subject Heading:

Approval to extend the Looked After Children (LAC) Residential Contract.

Cabinet Member:

Cllr. Oscar Ford, Cabinet Member - Children and Young People

SLT Lead:

Tara Geere, Acting Director of Children's Services

Report Author and contact details:

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Policy context:

This proposal is guided and underpinned by the principles of the Children's Act 1989, The Children's Homes Regulations and Quality Standards 2014 and the Children and Families Act 2014.

Financial summary:

The contract started on 28th October 2019 with the initial contract period due to end by the 27th October 2023, with two further possible extensions of two years each; a total of 8 years.

During the initial four year contract the projected spend until 27th October 2023 across all local authority partners is £10,188,227.90. The projected spend for the two year extension period across is £11,391,347.04. The total projected spend of for the full six year period is £21,597,574.94.

It is not expected that the cost will exceed the originally projected total value of the contract over the full eight year period which was

expected to be up to a maximum of £38,383,649.00.

As the contract was a joint commissioning exercise across the Northeast London Local Authorities led by Havering. The financial commitment from existing funds is shared across the seven local authorities on a usage basis.

Is this a Key Decision?

This is a key decision under the grounds of expenditure in excess of £500,000 and impact on communities living or working in an area compromising two or more wards.

When should this matter be reviewed?

October 2024, to coincide with the annual review point and preparations for the next year.

Reviewing OSC:

People Overview & Scrutiny Committee

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

SUMMARY

This report seeks approval to extend the Looked After Children (LAC) Residential Contract for a period of 2 years and to at the same time vary the detail of banding system within the contract to increase granularity and reflect the profile of the services commissioned over the initial term.

This contract was commissioned on behalf of the North East London Commissioning Partnership with Havering acting as the lead authority.

The contract started on 28th October 2019 with the initial contract period due to end by the 27th October 2023, with two further possible extensions of two years each; a total of 8 years.

The first contracted extension period will continue to commission the contract from the 28th October 2023 to the 27th October 2025.

RECOMMENDATIONS

It is recommended that Cabinet agree to:

1. Extend the Looked After Children Residential Contract with Woodford Childrens Home Limited for a period of two years from 28 October 2023; and
2. Subject to (1) above to vary the contract as set out in this report.
3. Delegate the decision to further extend the contract for the final contracted extension period (for a period of 2 years from 28 October 2025) to the Director of Children's Services, in consultation with the Lead Member of Children's Services subject to:
 - 3.1 the performance of the contract continuing to be satisfactory;
 - 3.2 the contract representing best value for the London Borough of Havering; and
 - 3.3 the agreement of all members of the North East London Commissioning Partnership to the extension.

Note:

4. The costs of the contract, including the vacancy fund as set out in this report.

REPORT DETAIL

This report seeks approval to extend the Looked After Children (LAC) Residential Contract for a period of two years and at the same time, reframe the commissioned services such that they remain within the scope of the originally specified provision and at the same time reflect the current commissioning landscape requirement.

The LAC Residential Contract (the Contract) was commissioned on behalf of the North East London Commissioning Partnership (NELCP) with Havering acting as the lead authority responsible for contract procurement, management and monitoring functions.

The Partnership brings together 8 Local Authorities and NHS organisations (the Partners) in the areas within:

- The London Borough of Havering
- The London Borough Barking and Dagenham
- The London Borough of Tower Hamlets
- The London Borough of Newham
- The London Borough of Waltham Forest
- The London Borough of Redbridge
- The Corporation of the City of London
- The London Borough of Hackney

A Partnership Agreement, sets out the roles and responsibilities of the parties within NELCP and provides structure for decision making.

In October 2019, the partners commissioned a contract for up to 35 Looked After Children (LAC) residential placements within the geographical footprint of North East London. The contract was awarded by LB Havering (as lead authority) to Woodford's Children's Services (Woodford) and commenced on the 28th October 2019 with an initial contract period of four years with two extensions available, each of a maximum of 24 months. A maximum contract length of 8 years in total.

The Contract is designed to offer flexibility in the design of the homes by not specifying the makeup of the homes beyond the levels of support and staffing requirements.

The current contract with Woodford entered its fourth year in October 2022 and the initial term will expire in October 2023.

There were significant challenges relating to the acquisition and development of homes within North East London due to the COVID pandemic and subsequent inflationary crises. The contract has not reached the full capacity. Currently, there are five homes operating under the NEL residential contract offering a maximum capacity of up to 22 placements. One service is in development and expected to begin taking placements in the second/ third quarter of the 2023/24 financial year. There is ongoing work with local authority Partners to identify suitable locations within each Borough for further services during the extension period.

To better achieve long term financial sustainability of the project and more adequately share liability across the local authority partners, in 2022 the operation of the residential contract moved away from a more traditional block contracting arrangement and adopted the use of a shared vacancy fund for managing vacancies. Under this arrangement, each Partner contributes £20,000 per annum to fund unfilled placements across the project, rather than

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any one local authority being responsible for the full cost of a vacancy. For transparency, the use of this fund is overseen by local authority partners at a regional placements group.

Despite the challenges highlighted, the project has started to deliver some of the anticipated benefits including value for money, outcomes for young people and placement stability within the homes as assessed independently by Revolution Consulting as part of the programme. Residential sufficiency presents a national challenge and recent guidance from the Department of Children, Schools and Families highlights the importance of regional commissioning arrangements in meeting demands. Additionally, there has been great benefit achieved in the Partnership working across the seven local authorities, and the relational commissioning arrangements with the service provider. It is acknowledged that whilst the financial benefits have been initially limited, further benefit could be attained by expansion of the programme towards the full complement of 35 placements.

With changes in demand together with the formation of other regional and pan-London groups, exercising the option to extend the contract offers further opportunities to regionally address sufficiency issues within North East London; and address the inequality in the outcomes for children in care whilst providing greater regional strength in commissioning of residential services for children in care.

Variation of the Contract

Due to the changes in the market since the contract was initially established, we would like to adopt the following changes to the contract by way of a variation. The changes are intended to reframe the commissioned services such that they remain within the scope of the originally specified provision and at the same time reflect the current profile of need. The profile identified is expected to last for the maximum permitted extension available.

The proposed changes (re-profiling) are:

Changes to the tiers of support under the contract.

Three bands of support are available within the contract. It is proposed that the contract will contain the same three levels with an additional subcategory of support to better reflect the changes in need across the children in care cohort since the commencement of the contract and offer better value for money for the minimum funding requirements compared to their equivalent services in the open market. The proposed tiers are as follows:

- Vacancy Rate/ Core – representing a minimum level of support on offer i.e. when a young person is demonstrates significant independence and will also be the cost for funding homes vacancies under the programme.
- Standard Rate – this would represent the equivalent to the low level of support under the original tender process.
- Enhanced care – representing the equivalent to the medium level of support under the original tender process.
- Complex care – representing the equivalent to the higher level of support under the original tender process.

Addition of a break clause into the contract extension periods at one year intervals.

To enable greater flexibility for the local authority partners, it is proposed that a one year break clause be added into each two year extension period. .

Aligning the inflation mechanism review to the financial year.

The contract contains a discretionary annual uplift clause. This is aligned to the contract year (i.e. 29 October). It is proposed that the mechanism is moved to line up with other inflationary requests and negotiations within the sector which are executed from the start of the financial year i.e. April 1st.

The above changes have been discussed with and agreed with Woodford.

Each Partner has agreed in principle (via the NELCP Program Board) to the proposed extension and variation. Following agreement, Partners are progressing the required internal governance to authorise extension. It is anticipated that formal confirmation of agreement will be provided to the Council by each Partner by 30 June 2023. At that point, subject to agreement of the recommendations of this report, the Council might enter into the extension.

Risks of extension

- Insufficient referrals could lead to substantial vacancies. As the financial risk of vacancies sits with the Partners not the provider, if only 50% of the current placements (22 placements) are filled the Partners would be (over) paying £1,146,728.00 (£163,818.29 per LA) per year for unfilled places. To mitigate this risk, regular forward planning and monitoring of placements will be undertaken to identify suitable referrals and step down opportunities across the local authority partners.
- LBH is lead Borough, and we are contractually responsible for all payments to providers. Havering has to ensure that:
 - Each member is charged accurately for its usage under the contract.
 - Havering receives prompt reimbursement for costs incurred on behalf of other Boroughs - It is envisaged that all Partnership members would be required to make an “up front” contribution in respect of the programme management costs associated with overseeing the delivery of the project including the funding of the project team in order to mitigate this risk.
- If Partners wish to pull out of the regional arrangement this could increase the costs for the remaining local authority partners, and reduce the overall strength of the regional contract. Under the collaboration agreement one month’s notice is required should a local authority wish to leave the partnership. The Partnership Agreement provides that upon exit, an exiting partner will account for outstanding financial liabilities related to existing project agreements or project contract.

Benefits of extension

Under the original intentions of the contract, it was expected that the contract would be utilised primarily for moving young people in care from out of Borough services to services much closer to their support networks and the placing local authorities. Due to shifting demands and priorities of the Partners caused by the change in the profile of need for young people in care, the contract has been used to support the demands of young people who have more limited experiences with the care system i.e. their first experience in the care system. With the changes in demographic, the benefits of the contract have been changed to better reflect the young people being supported.

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Under the changes proposed above, we would expect a summary of the benefits are provided below with a breakdown being provided in Appendix A.

- Reduced costs – it is proposed that the Council will make efficiencies by remaining in the programme, both directly from the costs of placements by scaling up the provision, and from sharing liability across the local authority partners compared to undertaking the work individually.
- Greater cost avoidance – by maintaining the regional approach and developing further services with transparency around pricing.
- Improved outcomes for young people placed in residential services -
- Improved placement stability – with the improved support offer and further developing the care planning approach, the services can be more responsive to the needs of young people and ensure that they are being
- Collaboration – by supporting the programme and adopting the changes outlined above, it is expected that there will be benefits provided by the collaborative approaches such as buying power and by adopting regional approaches.
- Improved sufficiency – by further engaging with the programme in developing the next phase of the contracts and services, and by aligning the goals of local authority partners.
- Improved care planning – the current work undertaken by Woodfords and the NELCP has provided insight into the main issues relating to finding suitable care for young people, this intelligence will be shared with local authorities with a view to developing a collaborative approach.
- Improved sustainability within the local residential market – the programme aims to develop a regional market statement relating to residential care and further develop the local markets to support needs. By engaging with the programme, Partners will be able to shape this to better meet their needs.

Costs

There are two associated costs for the residential contract: the residential fees and the wider programme costs for overseeing the delivery of the NELCP programme. Under the contract, the provider is able to provide uplift requests on an annual basis. Partners will need to negotiate their ongoing contribution to the sub regional commissioning functions going forward. These contributions would be built into the cost of placements and charged pro-rata to ensure there is an agreed way of meeting these costs for the duration of the contract between the partners. Other LAs 'spot-purchasing' would be charged a fee to contribute to administration costs.

There will be a fixed price per placement for basic requirements and a sliding scale of costs for more specialist support over and above the basic. There will be an expectation that the specialist costs will reduce as LAC children progress along their care plan.

Projected Placement Costs 2023/24

The projected placement costs across the 8 LA partners includes a fee uplift of 8% from April 2023 and an addition of 1 extra unit for emergency care from October 2023.

Projected Spend 2023/24

	Total	
Vacancy Payments	£	96,000.00
Standard	£	1,367,113.81
Enhanced	£	2,392,624.26
Complex	£	864,379.20
Total	£	4,720,117.28

Projected Costs 2024/25

An inflationary uplift of 5% from April 2024 has been used to provide an indicated contract value. As part of the extension period, we have included the expanded development of two home for a total of 8 capacity in 2024/25 financial year.

Projected Spend 2024/25

	Total	
Vacancy Payments	£	69,428.57
Standard	£	1,798,804.11
Enhanced	£	3,109,093.38
Complex	£	1,068,793.20
Total	£	6,046,119.26

The programme management costs are split across the local authority partners within the programme. The below projected costs outline the costs per LA should LA partners decide to leave the programme. These projections are based on the projected budget for each year noting that these run from financial year (April to April) and not the contract years (October to October). As the lead local authority Havering Council is responsible for recruitment of the programme roles to oversee the delivery of the North East London Commissioning Partnership and the LAC residential contract. Currently, there are two roles overseeing the contract; a Senior Commissioning and Project Manager and a Placements Officer, with additional roles for the delivery of the North East London Commissioning Partnership Programme.

Projected Programme Management Costs 2023/24

Project Cost Function	Projected Cost for 2023/24 by No. of LA Partners				
	All LA Partners	6 LA Partners	5 LA Partners	4 LA Partners	3 LA Partners
Project Team	£189,196.00	£189,196.00	£189,196.00	£189,196.00	£189,196.00
Back Office	£39,384.62	£39,384.62	£39,384.62	£39,384.62	£39,384.62
Contracted Services	£15,000.00	£15,000.00	£15,000.00	£15,000.00	£15,000.00
Vacancy fund	£140,000.00	£120,000.00	£120,000.00	£120,000.00	£120,000.00
Total	£383,580.62	£363,580.62	£363,580.62	£363,580.62	£363,580.62
Cost per LA	£54,797.23	£60,596.77	£72,716.12	£90,895.16	£121,193.54

Projected Programme Management Costs 2024/25

Project Cost Function	Projected Cost for 2024/25 by No. of LA Partners				
	All LA Partners	6 LA Partners	5 LA Partners	4 LA Partners	3 LA Partners
Project Team	£241,529.88	£241,529.88	£241,529.88	£241,529.88	£241,529.88
Back Office	£40,172.32	£40,172.32	£40,172.32	£40,172.32	£40,172.32
Contracted Services	£0.00	£0.00	£0.00	£0.00	£0.00
Vacancy fund	£140,000.00	£120,000.00	£120,000.00	£120,000.00	£120,000.00
Total	£421,702.20	£401,702.20	£401,702.20	£401,702.20	£401,702.20
Cost per LA	£60,243.17	£66,950.37	£80,340.44	£100,425.55	£133,900.73

For the extension period, the programme costs would equate to £384k of the total projected spend across the LA partners of £5.2m for 2023/24 This equates to £55k per LA for 2023/24 and 7% of the total projected contract spend (including back office costs). For 2024/25 the programme costs equate to £373k of the total projected spend of £6.4m.

The addition of the break clause into the extension period will better enable the Partners to reduce the overall liability for costs should Partners pull out. Ultimately, an overall financial benefit of the programme achieved regardless of the number of partners providing that a minimum number of placement weeks are met. These are highlighted in Appendix A.

Links to other local projects within with North East London & Havering

Locally, the supported housing programme is developing semi-independent provision for this cohort of young people which will enable young people placed in the programme by Havering to be stepped down locally. This offers a greater opportunity for continuity of care by keeping support networks local.

Residential sufficiency remains an issue across London and nationally, the government has advised local authorities to develop regional commissioning strategies. Due to the NELCP, NEL has an advantage over other local authorities who are looking to establish similar arrangements. It is possible to sell underutilised provision to other local authorities and regional groups where needs arise further reducing the overall financial liability of the project on the local authority partners.

Overall our intentions are to keep people local and to develop local support and provision across the network. This includes initiatives looking to address health and education inequalities for children in care.

REASONS AND OPTIONS

Reasons for the decision:

As demonstrated above, the extension of the contract will help to support local and regional strategic aims in meeting the statutory obligations under the Children’s and Families Act in providing appropriate services for Looked After Children. In addition, it would enable the London Borough of Havering in conjunction with the North East London Commissioning

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Partnership to better support sufficiency within the children's residential care market, and supporting the wider aim of placing LAC closer to home and local support networks.

Other options considered:

Option 1: Decommissioning of the contract and exit the NELCP - If we decommission the contract it would result in vulnerable children being without care in the community. The Council might not be able to meet their statutory responsibilities of providing homes for children. Rejected.

Option 2: Procure as a single Borough Service - Going out to market for a Havering only service would not offer the same opportunities for economies of scale that an eight-borough tender across North East London would offer. Rejected.

IMPLICATIONS AND RISKS

Financial implications and risks:

The costs over the first 4 years of the contract and forecasts the next 2 years are shown in the table below. The estimated value of the 8 year contract at procurement across all partners was £36.8M

Contract spend over all councils till Oct 2023	£10,188,227.90
Forecasted spend over all councils over the next 2 years	£11,391,347.04
6 years total projected spend	£21,579,574.94
Total expected contract value	£38,383,649.00

The actual financial cost to Havering will be dependent upon the contract award, and the number and value of Havering placements relocated under the block contract. The contract has demonstrated the benefit of the joint procurement and led to significant cost avoidance for the partner councils, as shown in Appendix A.

The programme management costs are shared across the partnership councils, and if any of the partners decided to leave the arrangement giving relevant notice, that cost would be recovered from the remaining councils and the shares would increase as shown in the body of the report.

Legal implications and risks:

The Council has power to extend and vary the contract under the general power of competence contained in section 1 of the Localism Act 2011 which allows the Council to do anything that an individual may do subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The Council also has power to extend and vary the contract under s111 Local Government Act 1972 which permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

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The Partner Councils are parties to a Collaboration Agreement under which the Council agrees to be lead council within the North East London Commissioning Partnership (NELCP) and to enter into contracts (Specific Project Agreements) on behalf of itself and the other Partners. The Council entered into the Looked After Children Residential Contract further to the NELCP collaboration agreement. The agreement contains appropriate cross indemnities and liabilities relating to partnership matters.

The Looked After Children Residential Contract is a Specific Project Agreement. As stated in the body of the report, a Partner may leave (withdraw) on one month's notice. In the event that a Partner withdraws, the collaboration agreement requires that the Partners (including the withdrawing Partner) agree the extent of the liabilities of the withdrawing Partner pursuant to the collaboration agreement and any Specific Project Agreement. To include the costs and losses of the remaining Councils arising from the withdrawal and specifically contract payments). Following agreement, payment must be made by the withdrawing Partner within 20 days.

The proposed extension to the contract is expressly provided for within the contract terms and is permissible.

The contract when procured was above the Public Contracts Regulations 2015 (PCR 2015) Light Touch Threshold for Services and any proposed variation must be permissible under Regulation 72 PCR 2015.

The proposed variation is considered permissible under Regulation 72(1)(e). In particular:

- The nature of the contract and the services will remain unchanged from those initially procured.
- The economic balance is unchanged (it is noted that voids costs have always been subject to payment)

For the reasons set out above, the Council may extend and vary the contract.

Human Resources implications and risks:

There are no human resources implications or risks associated with this contract extension.

Equalities implications and risks:

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring. The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the council, when exercising its functions, to have due regard to:

- I. the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

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- II. the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- III. Foster good relations between those who have protected characteristics and those who do not.

Note: 'protected characteristics' are: age, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

It is important to the council to ensure that direct payments for social inclusion are relevant to our community's needs.

Health and Wellbeing implications and Risks

The council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

It is important to the council to ensure that direct payments for social inclusion are relevant to our community's needs and the new day service policy ensures that there is a clearly defined offer that is based on a service user's needs.

The purchasing power of an 8-borough arrangement allows great opportunity to place a child closer to their normal place of residence/home community. As such this would have positive impacts on the health and wellbeing of the child in care. In addition, the increased chance of being in education or employment is likely to improve the child's life chances for better paid employment, education, housing and income, all of which benefit their overall health and wellbeing.

Environmental and Climate Change Implications and Risks

There are no environmental and climate change implications or risks associated with this contract extension.

BACKGROUND PAPERS

Appendix A – Benefits of the NELCP - This appendix is not available for public inspection as it contains or relates to exempt information within the meaning of paragraphs 3 of Schedule 12A to the Local Government Act 1972 by virtue of which the public are likely to be excluded.

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North East London Commissioning Partnership Evaluation Report published December 2022 by Revolution Consulting and National Centre for Excellence in Residential Child Care

Additional papers relied upon are already in the public domain as “published papers”.